

**In the**

**SUPREME COURT OF MISSOURI**

**En Banc**

**May Session, 2021**

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**Report of the Office of the Chief Disciplinary Counsel for the year  
2020 together with the Financial Report of the Treasurer of the  
Advisory Committee Fund for 2020**

**ALAN D. PRATZEL**  
**Chief Disciplinary Counsel**

IN THE  
SUPREME COURT OF MISSOURI

EN BANC

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MAY SESSION, 2021

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REPORT OF THE OFFICE OF CHIEF DISCIPLINARY COUNSEL FOR THE YEAR  
2020 TOGETHER WITH THE FINANCIAL REPORT OF THE TREASURER OF THE  
ADVISORY COMMITTEE FUND FOR 2020

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To the Honorable Judges of The Supreme Court:

Comes now the Office of Chief Disciplinary Counsel, and respectfully reports to  
the Court on matters concluded during calendar year 2020 or pending on December 31,  
2020.

## I.

### **THE FOLLOWING DISCIPLINARY ACTIONS WERE TAKEN BY THE COURT DURING 2020 BASED ON PROCEEDINGS PROSECUTED BY THE OFFICE OF CHIEF DISCIPLINARY COUNSEL<sup>1</sup>**

**CANTONWINE, STEVEN R., Imperial, MO, Missouri Bar #36388**

Default Disbarment: Violation of Rules 4-1.7(a)(2), 4-1.8(e), 4-1.8(j), and 4-8.4(a). Date of Order: July 15, 2020.

**CARTIER, DON WENDEZE, Glendale, AZ, Missouri Bar #67893**

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of two years and shall only be made once reinstated by Arizona: Rule 5.20 (Reciprocal – Arizona); Violation of Rules 4-1.2(a), 4-1.4, 4-1.6, 4-1.15(a)(6), 4-1.15(a)(7), 4-1.15(f), 4-1.15(h), 4-3.3, 4-3.4(c), 4-7.1, 4-8.1(b), 4-8.4(c), and 4-8.4(d). Date of Order: February 4, 2020.

**COPLEY, PATRICK GEORGE, Overland Park, KS, Missouri Bar #52731**

Surrendered license and disbarred: Violation of Rules 4-1.3, 4-1.4, 4-1.7, 4-1.15, 4-1.16, and 4-8.4. Date of Order: June 30, 2020.

**CRITES, RICHARD DON, Springfield, MO, Missouri Bar #28619**

Suspension from the practice of law until further order of the Court pursuant to provisions of Rule 5.23(b). Date of Order: May 13, 2020.

**CURRAN, VANESSA RENE ELIZABETH, Kansas City, MO, Missouri Bar #53175**

Default Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.5, 4-1.15, 4-1.16(d), 4-3.4(c), 4-5.3(c), 4-8.1(c), and 4-8.4(c). Date of Order: October 20, 2020.

**DURBIN, MARIE ANNE, St. Louis, MO, Missouri Bar #36252**

Default suspension from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of one year: Violation of Rules 4-1.3, 4-1.4, 4-8.1(c), and 4-8.4(c). Date of Order: September 14, 2020.

**EASLEY, MARK DOYLE, St. Louis, MO, Missouri Bar #52068**

Suspension, suspension stayed, placed on probation for two years: Violation of Rules 4-1.1, 4-1.3, and 4-1.4. Date of Order: September 18, 2020.

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<sup>1</sup> Often there are attorneys with the same or similar names. It is important to note the bar number and location of the individual.

**FRANCO, PAUL SAMUEL, Kansas City, MO, Missouri Bar #45122**

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of one year: Violation of Rules 4-1.1, 4-1.3, 4-1.15(a), 4-1.15(a)(4), 4-1.15(a)(5), 4-1.15(c), 4-3.2, 4-8.1(b), and 4-8.4(d). Date of Order: December 11, 2020.

**GRIFFIN, HENRY VINCENT, Hollister, MO, Missouri Bar #29605**

Suspension, suspension stayed, placed on probation for two years: Violation of Rules 4-1.15(a), 4-1.15(d), 4-4.1(a), 4-4.1(b), 4-8.4(a), 4-8.4(c), and 4-8.4(d). Date of Order: March 17, 2020.

**HERNANDEZ, JOSUE DAVID, Denver, CO, Missouri Bar #61215**

Public Reprimand: Violation of Rule 4-3.4(c). Date of Order: February 4, 2020.

**HOEHN, MICHAEL GENE, Washington, DC, Missouri Bar #33530**

Disbarment: Rule 5.20 (Reciprocal – District of Columbia Court of Appeals); Violation of Rules 4-1.4(b), 4-1.5(a), 4-1.5(c), 4-1.15(a)(c), 4-1.15(a)(e), 4-1.15(d), 4-1.15(f), 4-1.16(d), 4-8.4(c), and 4-8.4(d). Date of Order: April 20, 2020.

**HOLLON, JERRY ALAN, St. Joseph, MO, Missouri Bar #49814**

Default suspension from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of two years: Violation of Rules 4-1.15(a), 4-1.15(a)(5), 4-1.15(c), 4-1.15(d), 4-1.15(f), and 4-8.4(c). Date of Order: March 17, 2020.

**JOHNSON, MARC MATTHEW, St. Louis, MO, Missouri Bar #58065**

Public Reprimand with Requirements: Violation of Rules 4-1.1, 4-4.2, and 4-8.4(c). Date of Order: June 30, 2020.

**KUPKA, LAUREL ROSE, Overland Park, KS, Missouri Bar #64317**

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of two years: Rule 5.20 (Reciprocal – Kansas); Violation of Rules 4-1.1, 4-1.3, 4-1.4(a)(b), 4-4.1(a), 4-8.4(c), and 4-8.4(d). Date of Order: October 20, 2020.

**MCCABE, KIRK JAMES, Liberty, MO, Missouri Bar #44395**

Immediate suspension from the practice of law pursuant to provisions of Rule 5.24. Date of Order: June 17, 2020. Supreme Court No. SC98571.

**MCNEAL, SYREETA LASHAWN, Columbia, MO, Missouri Bar #60207**

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of six months: Violation of Rules 4-1.5(a), 4-1.6(a), 4-1.9(c), 4-1.16(d), 4-3.4(d), 4-8.4(a), 4-8.4(c), and 4-8.4(d). Date of Order: September 15, 2020.

**MAAG, THOMAS GORDON, Wood River, IL, Missouri Bar #58108**

Public Reprimand: Rule 5.20 (Reciprocal – Illinois); Violation of Rules 4-1.7(a)(2) and 4-1.8(a). Date of Order: September 1, 2020.

**OFFICER, ROBERT L., St. Louis, MO, Missouri Bar #21983**

Default Disbarment: Violation of Rules 4-1.1, 4-1.3, 4-1.4, 4-1.5(a), 4-1.15(a), 4-1.15(e), 4-1.16(d), 4-8.1(c), 4-8.4(c), and 4-8.4(d). Date of Order: June 15, 2020.

**REYNOLDS, RYAN DAVID, Springfield, MO, Missouri Bar #60452**

Immediate suspension from the practice of law pursuant to provisions of Rule 5.24. Date of Order: December 9, 2020.

**RIDINGS, KRISTY LYNN, St. Louis, MO, Missouri Bar #51133**

Disbarment: Violation of Rules 4-1.15(a)(4), 4-1.15(a)(5), 4-1.15(a)(7), 4-1.15(b), 4-1.15(c), 4-1.15(d), 4-1.15(f), 4-5.3, and 4-8.4(c). Date of Order: March 17, 2020.

**ROBY, ERIC DAMEN, Buckner, MO, Missouri Bar #56582**

Immediate suspension from the practice of law pursuant to provisions of Rule 5.24. Date of Order: February 13, 2020. Supreme Court No. SC98358.

Default Disbarment: Violation of Rules 4-1.1, 4-1.3, 4-1.4, and 4-8.4(c). Date of Order: August 11, 2020. Supreme Court No. SC98550.

**SANCHEZ, EFRAIN L., Grandview, MO, Missouri Bar #63371**

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of six months: Violation of Rules 4-1.15(c) and 4-8.4(a). Date of Order: June 2, 2020.

**SHINE, CATHLEEN ANNE, Harrisonville, MO, Missouri Bar #26035**

Public Reprimand with Requirements: Violation of Rules 4-1.3, 4-1.4, 4-1.7, and 4-8.4(a). Date of Order: September 29, 2020.

**SPIEGEL, MICHAEL MARTIN, Blue Springs, MO, Missouri Bar #49658**

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of six months: Violation of Rules 4-1.7(a), 4-1.8(j), and 4-8.4(d). Date of Order: March 17, 2020.

**TOLLIVER, LESLIE, St. Louis, MO, Missouri Bar #53275**

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of two years: Violation of Rules 4-1.15(a)(5), 4-1.15(c), 4-1.15(d), 4-1.15(f), and 4-8.4(c). Date of Order: October 28, 2020.

**TRESSLAR, JOHN ERIC, St. Louis, MO, Missouri Bar #35364**

Disbarment: Violation of Rules 4-1.3, 4-1.4(a), 4-1.15(a)(5), 4-1.15(a)(6), 4-1.15(f), 4-3.3(a)(1), 4-8.4(c), and 4-8.4(d). Date of Order: October 13, 2020.

**WILLIAMS, GAYLARD TERRANCE, St. Louis, MO, Missouri Bar #33289**

Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of one year: Violation of Rules 4-1.7(a)(2), 4-1.8(j), and 4-8.4(d). Date of Order: June 2, 2020.

**ZARATE, DANIEL GONZALEZ, Gladstone, MO, Missouri Bar #51603**

Disbarment: Violation of Rules 4-5.5(a), 4-8.4(c), and 4-8.4(d). Date of Order: June 2, 2020.

## **II.**

### **THE FOLLOWING DISCIPLINARY ACTIONS WERE PENDING BEFORE THE COURT AT THE CLOSE OF 2020 BASED ON PROCEEDINGS PROSECUTED BY THE OFFICE OF CHIEF DISCIPLINARY COUNSEL**

**KAYIRA, ERIC FRANCIS, St. Louis, MO, Missouri Bar #50672**

(Disbarment: Violation of Rules 4-1.1, 4-1.15(a), 4-1.15(a)(5), 4-1.15(a)(7), 4-1.15(b), 4-1.15(d), 4-1.15(f), 4-3.3(a)(1), 4-3.4(c), 4-5.1(a), 4-8.1(a), and 4-8.4(c).  
Date of Order: January 28, 2021.)

**MCCABE, KIRK JAMES, Liberty, MO, Missouri Bar #44395**

(Default Disbarment: Violation of Rules 4-1.3, 4-1.4, 4-1.15(a), 4-1.15(d), 4-3.4(c), 4-8.1(c), 4-8.4(c), and 4-8.4(d). Date of Order: January 22, 2021.  
Supreme Court No. SC98842.)

**MORONEY, JAMES PATRICK, Springfield, MO, Missouri Bar #23377**

(Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of two years: Violation of Rules 4-1.6 and 4-8.4(d). Date of Order: March 8, 2021.)

**RIPPLINGER JR., GEORGE R., Belleville, IL, Missouri Bar #27134**

(Suspended from the practice of law and no petition for reinstatement shall be entertained by the Court for a period of one year: Rule 5.20 (Reciprocal – Illinois); Violation of Rules 4-3.4(a), 4-3.4(c), 4-3.4(e), 4-8.4(c), and 4-8.4(d).  
Date of Order: March 2, 2021.)

### **III. REINSTATEMENT PROCEEDINGS**

#### **A. DISCIPLINARY MATTERS**

At the beginning of the year, 14 Missouri lawyers who had previously been disciplined had applications for reinstatement pending for processing by the Chief Disciplinary Counsel. During the year, nine additional applications for reinstatement were filed and referred to the Chief Disciplinary Counsel for processing.

The OCDC processed a total of 23 disciplinary reinstatement applications during 2020. The status of those 23 applications is as follows:

Reinstated	<b>5</b>
Denied	<b>5</b>
Dismissed	<b>1</b>
Pending with OCDC	<b>12</b>

#### **Five Petitioners Were Reinstated By The Supreme Court**

1. Kevin T. Cure, Galena, KS, Missouri Bar #41064, reinstated on December 4, 2020, and placed on probation for a period of one year. Petitioner was suspended on July 3, 2018.
2. David Edward Herron, II, Overland Park, KS, Missouri Bar #40394, reinstated on June 11, 2020. Petitioner was suspended on October 29, 2019.
3. Theodore Roy Hoefle, Raymore, MO, Missouri Bar #56509, reinstated on September 1, 2020, and placed on probation for a period of two years. Petitioner was suspended on May 2, 2017.
4. Thomas R. Robbins, St. Louis, MO, Missouri Bar #58074, reinstated on November 5, 2020. Petitioner was interimly suspended on November 6, 2012, and indefinitely suspended on August 18, 2015.
5. Russell Anthony Willis, III, Tucson, AZ, Missouri Bar #27691, reinstated on March 17, 2020, and placed on probation for a period of one year. Petitioner was suspended on November 26, 2002.



### **Five Disciplined Petitioners Were Denied Reinstatement By The Supreme Court**

1. Marc W. Braun, Missouri Bar #33511, denied reinstatement. Petitioner was disbarred on June 24, 2013.
2. James Arthur Clampitt, Missouri Bar #48548, denied reinstatement. Petitioner was interimly suspended on March 14, 2013, and subsequently disbarred on May 17, 2013.
3. James Clifton Robinson, Missouri Bar #30969, denied reinstatement. Petitioner was suspended on April 4, 2017.
4. Samuel Edward Trapp, Missouri Bar #52617, denied reinstatement. Petitioner was suspended on October 14, 2014.
5. Thomas M. Utterback, Missouri Bar #23288, denied reinstatement. Petitioner was disbarred on June 30, 1998.

### **One Petition Was Dismissed By The Supreme Court in 2020**

1. Laura Lee Robinson, Missouri Bar #41723, Informant filed motion to dismiss petition for reinstatement on March 13, 2020. Petitioner was suspended on June 25, 2019.

## **B. OTHER REINSTATEMENTS**

### **Tax**

Lawyers may be suspended for state tax issues under Rule 5.245. During 2020, the OCDC investigated and processed six tax suspension applications for reinstatement. Two were reinstated. Four applications remained pending at the end of 2020.

### **Fee**

Lawyers may be suspended under Rule 6.01(f) upon non-payment of annual enrollment fees. If their non-payment exceeds three years, they must apply for reinstatement under Rule 5.28. In 2020, the OCDC investigated and processed 14 applications for reinstatement by those lawyers. Seven were reinstated. One application was denied. Six applications remained pending at the end of 2020.

## **Returns to Active Status**

Lawyers may elect to become inactive under Rule 6.03. Per Rule 6.06, the OCDC investigated and processed 95 inactive lawyers' applications for reinstatement. Seventy-five were returned to active status. Nine applications were dismissed. Eleven applications remained pending at the end of 2020.

## **MCLE**

Lawyers may be suspended for non-compliance with Mandatory Continuing Legal Education requirements under Rule 15.06(f). During 2020, the OCDC investigated and processed 11 MCLE suspension applications for reinstatement. Seven were reinstated. One application was denied. Three applications remained pending at the end of 2020.

#### IV. COMPLAINTS RECEIVED IN 2020 AND ACTIONS THEREON

**1,709** complaints of attorney misconduct were received in 2020.

The following actions were taken on complaints received in 2020:

- 855** Formal Investigations opened
  - 406** Cases investigated by Regional Disciplinary Committees
  - 449** Cases investigated by OCDC
- 23** Cases placed in the OCDC's Informal Resolution Program  
[\*See Paragraph A (below)]
- 811** Investigations not opened (*In certain instances, OCDC does not open an investigation until after related litigation is completed.*) Approximately 35 complaints were provided a further review and response by senior OCDC staff, following complainants' requests. Some of those reviews led to an investigation being opened.
- 15** Referred to Complaint Resolution Committee (*\*See Missouri Bar Complaint Resolution Activity Report attached.*)
- 5** Placed in "Inquiry" status (*These cases were not opened but were monitored to determine whether an investigation should be opened in the future.*)

##### A. Informal Resolution Program

In this program, intake counsel assigns appropriate cases to a paralegal to contact the complainant, the respondent, or both, to assist in resolving the complaint rather than proceeding with a formal investigation. The program is used most often in response to complaints that the client has not had adequate communication from the lawyer or where the client has been unable to obtain file documents. It may also be used in a case where the complainant has trouble articulating the nature of the complaint, or seems confused about the lawyer's responsibilities or the legal process. The program has been successful in reducing complaint processing time while preserving the attorney/client relationship. Most cases in the program were resolved without opening an investigation.

## **B. Advisory Committee Review**

Rule 5.12 permits complainants to seek review by the Advisory Committee in cases in which the OCDC or a Regional Disciplinary Committee investigated and found insufficient probable cause to believe that an attorney was guilty of professional misconduct that would justify discipline. In 2020, 39 complainants requested review. The Advisory Committee upheld the findings on 14 of these files and issued a guidance letter to six lawyers. The Committee assigned four of the review files for further investigation. Fifteen of these review files were pending with the Committee at the end of the year.

## **C. Fee Disputes**

The Missouri Bar continues to provide a fee dispute resolution program. This program is valuable to lawyers and legal consumers by providing a forum for fee-related complaints to be addressed through a non-disciplinary structure. During the year, complainants were referred to the Fee Dispute Committee as appropriate.

## **D. Overdraft Notification**

In 2010, the Supreme Court adopted an amendment to Rule 4-1.15 of the Rules of Professional Conduct that requires financial institutions holding lawyer trust accounts to notify the OCDC in cases where the trust account is overdrawn. In 2020, the OCDC received 86 overdraft notifications. Many of these involved negligent or careless management of trust accounts, which were often handled by education and follow-up monitoring without discipline. Some overdrafts were more serious, either by scope of the problem or by the intention of the attorney. Various levels of discipline were necessary in these matters in order to protect the public and the integrity of the profession.

## **V. DISCIPLINE ACTION INITIATED**

### **A. Admonitions**

The OCDC administered 38 written admonitions and the Regional Disciplinary Committees administered 38 written admonitions to Missouri lawyers. (Total: 76 admonitions). In addition, 103 guidance letters were sent to lawyers by OCDC and the Regional Committees. Guidance letters are not disciplinary action, but are used to educate the attorney on ethical responsibilities or to alert the attorney that a particular course of conduct, if unchecked in the future, may cause additional complaints to be filed.

### **B. Investigation Summary**

Region	Investigations Pending 1/1/20	Investigations Referred 2020	Investigations Disposed in 2020
IV	95	124	133
X	60	145	128
XI	20	51	31
XV	48	85	73
OCDC	214	448	271

Region	Admonitions Issued in 2020	Guidance Letters Issued in 2020
IV	10	14
X	14	17
XI	4	6
XV	10	21
OCDC	38	45

## **C. Filed Hearing Matters**

### **FILING INFORMATION**

In 2020, the OCDC and the Regional Disciplinary Committees filed Informations (the formal charging document) on 145 files. “Files” indicate individual complaints against attorneys. An Information against one attorney may include charges involving multiple files.

Fourteen Informations, representing 24 complaint files, were pending before the Advisory Committee and Disciplinary Hearing Panels at the beginning of 2020. Disciplinary Hearing Panels conducted 14 hearings involving 109 files. Seven default Informations were filed directly in the Supreme Court.

## **D. Cases filed at the Supreme Court**

### **RULE 5.19**

In 2020, five disciplinary hearing panel decisions were approved by the Missouri Supreme Court, pursuant to Rule 5.19(c), without requirement of briefing and argument.

Informant’s briefs were filed pursuant to Rule 5.19(d), in the Supreme Court in eight cases. Of those eight cases, three were heard because the Respondent did not concur in a DHP’s recommended sanction, three were heard because the Informant did not concur in a DHP’s recommended sanction, and two were heard after the Court rejected a joint stipulation or statement of acceptance of the panel’s decision. Nine disciplinary cases appeared on the Court’s oral argument calendar in 2020.

### **RULE 5.20**

Four reciprocal discipline cases, based on adjudication of misconduct in other jurisdictions, were filed in 2020: *In re Hoehn*, SC98341; *In re Kupka*, SC98651; *In re Maag*, SC98508; and *In re Ripplinger*, SC98843.

### **RULE 5.23**

In 2020, an Information was filed under Rule 5.23(b) against one attorney, based on the inability to competently represent the interest of clients by reason of physical or mental condition: *In re Crites*, SC98461.

#### **RULE 5.24**

Three Informations requesting interim suspension for substantial threat of irreparable harm were filed in 2020: *In re McCabe*, SC98571; *In re Reynolds*, SC98836, and *In re Roby*, SC98358.

#### **RULE 5.25**

In 2020, one attorney applied to surrender his license under Rule 5.25: *In re Copley*, SC98405 (accepted June 30, 2020). The OCDC filed a Report and Recommendation in this case.

## **VI. LAWYER MONITORING**

OCDC staff monitor lawyers' practices in four circumstances, all intended to improve the lawyers' likelihood of maintaining a successful practice and protecting the public. In 2020, the office monitored 22 lawyers in the disciplinary diversion program established by Rule 5.105. The diversion program was created to help offenders who have engaged in relatively minor rule violations, often involving practice management.

Twenty lawyers were monitored in 2020 while on probation under Rule 5.225, the rule permitting probation for lawyers whose conduct did not warrant disbarment. Also, the office was asked by the Missouri Supreme Court and Missouri Board of Law Examiners in 2020 to monitor the practice of 11 newly admitted lawyers. Finally, in 2020, the office monitored the practice of 12 lawyers who have been reinstated subject to an order of probation.

## **VII. UNAUTHORIZED PRACTICE OF LAW**

The Office of Chief Disciplinary Counsel opened complaint files on approximately six individuals and organizations alleged to have engaged in the unlawful practice of law.

Some of these cases were referred to local prosecuting attorneys or to the Consumer Protection Division of the Missouri Attorney General's office. Others were resolved through communication with the company or individual.

Due to the workload and staff resources of OCDC, the office focused its efforts on conducting in-depth investigations in those cases where it appeared that widespread consumer fraud was occurring. Where appropriate, the office conducted investigations of complaints, and the office referred the materials to law enforcement for criminal prosecution as OCDC is only authorized to seek a civil injunction against a party for engaging in the unauthorized practice of law.

## **VIII. PRESENTATIONS BY OCDC STAFF**

During 2020, OCDC staff gave presentations at Continuing Legal Education (CLE) seminars. The OCDC staff gave presentations to the following organizations: Christian County Bar Association; Kansas City Metropolitan Bar Association; Missouri Department of Workers' Compensation; Missouri Paralegal Association; University of Missouri – Kansas City; and Washburn University Law School. The OCDC staff also spoke at several Missouri Bar telephone CLEs and webinars.



## **IX. SIGNIFICANT ACTIVITIES IN 2020**

### **OCDC Response to COVID-19 Pandemic**

Beginning in mid-March, 2020, the OCDC staff began working remotely due to the COVID-19 Pandemic. Limited staff were assigned to be present in the building daily in order to ensure that the work of the discipline system continued uninterrupted. Throughout the year and into 2021, the OCDC continued to take necessary and appropriate steps in order carry out its work while simultaneously implanting measures to protect staff from the pandemic in accordance with the Court's various COVID-19 Orders. It is anticipated that the OCDC will return to normal staffing levels by mid-2021.

### **Disciplinary Case Processing**

The Supreme Court has established timeline standards for the disposition of pending cases that seek to complete 75% of investigations within six months and 90% of investigations within one year. During 2020, the OCDC and the disciplinary system did not meet the timeline standards during the second, third, or fourth quarters of the year. In the first quarter of 2020, the OCDC and the disciplinary system did not meet its six-month timeline standard, but did meet its one-year timeline standard.

### **Policy regarding Frequent Complaint Recipients**

The OCDC devotes a significant amount of its resources to complaints against attorneys who are frequent complaint recipients (FCR attorneys). In an effort to address this issue, the OCDC adopted a policy intended to identify and meet with FCR attorneys in order to discuss and address law practice management issues and any other issues that affect the FCR attorney's practice and contribute to client complaints. In addition, the FCR meetings are intended to inform the attorney regarding the disciplinary process and the system of progressive discipline adhered to by the Supreme Court and the OCDC. During 2020, the Chief Disciplinary Counsel continued to meet with FCR attorneys pursuant to this policy.

### **Law Practice Management Course**

For the past several years, with the support and approval of the Supreme Court, the OCDC has worked with The Missouri Bar to present a comprehensive program to address the issues raised by the lack of law practice management skills among a few members of the Bar whose clients have repeatedly complained about them. This cooperative effort resulted in the development of a practice management course staffed by a distinguished faculty of lawyers. In 2020, due to COVID-19, the course was offered as a full-day, remote session. Thirty-two (32) lawyers attended the course in 2020.

Those attorneys who attended the course in 2020 also participate in periodic interactive discussion groups during the following year to track their progress in meeting their law practice management goals established during the program.

### **Staff Training**

In 2020, the OCDC attorney staff participated in training by attending virtual conferences offered by The Missouri Bar, the National Organization of Bar Counsel and the American Bar Association – Center for Professional Responsibility. Paralegals at the OCDC attended virtual sessions and presented training through the Missouri Paralegal Association and the Organization of Bar Investigators, an organization affiliated with the National Organization of Bar Counsel.

### **Supreme Court Rule 4**

The Court entered an Order dated November 19, 2019 and effective that same date amending Rule 4-3.4 by adopting a new heading title and adopting new Comments 4 and 5 to the Rule. The new heading title reads, “Duties to Opposing Party and Counsel and Ethical Obligation to Follow Court Orders and Rules”. The new Comment 4 provides states lawyers have an ethical duty to comply with court orders in both their professional and personal capacities. As an example, a lawyer’s failure to comply with court-ordered child support obligations may violate Rule 3.4(c) or other rules of professional conduct.

The Court entered an Order dated June 30, 2020 and effective July 1, 2020 adding new Comments to Rule 4-1.2 – Scope of Representation. New Comment 8 addresses an attorney’s ethical responsibilities when there is a conflict between state law and federal law.

### **Supreme Court Rule 5**

The Court entered an Order dated May 13, 2020 and effective May 16, 2020 regarding restrictions on conducting in-person disciplinary hearing panel proceedings during the COVID-19 Pandemic. The Court ordered that hearings shall be conducted in accordance with Rule 5.15 utilizing all available remote technologies.

The Court entered an Order dated June 2, 2020, effective that day, repealing and revising Rule 5.28(c) related to requirements for persons seeking reinstatement to practice law after suspension or disbarment. The new provision requires those persons to obtain continuing legal education credits associated with professionalism, substance abuse, mental health, legal or judicial ethics, malpractice prevention, explicit or implicit bias, diversity, inclusion, or cultural competency.

The Court entered an Order dated December 24, 2019, effective January 1, 2020 clarifying the process in Rule 5.19 for assessment and collection of costs in attorney discipline cases.

### **Supreme Court Rule 15**

The Court entered an Order dated March 23, 2020, effective that date, extending the deadline imposed for MCLE reporting under Regulation 2 15.01.14 and 15.06.5. Under the new regulation, Missouri lawyers' 2020 deadline for completing MCLE credits was extended from July 31 to September 30.

The Court entered an Order dated August 13, 2020 and effective that same date adopting a new Regulation 15.05.6 entitled "Lawyers Licensed in September 2020". The Regulation relieved lawyers licensed in September 2020 from the requirement to report any continuing legal education hours during the 2020-2021 reporting year.

The Court entered an Order dated September 1, 2020 and effective that same date adopting a new subdivision (f) to Rule 15.05 regarding continuing legal education reporting requirements for family court judges and commissioners.

The Court entered an Order dated December 31, 2019, and effective July 1, 2020 providing that lawyers who fail to timely report annual completion of MCLE requirements under Rule 15.06(b) shall be assessed a \$200 late filing fee. The late fee for compliance before the end of each successive month after August 31 shall increase by \$50.00 until a lawyer establishes compliance with Rule 15. The maximum late filing fee under this subsection is \$500.00.

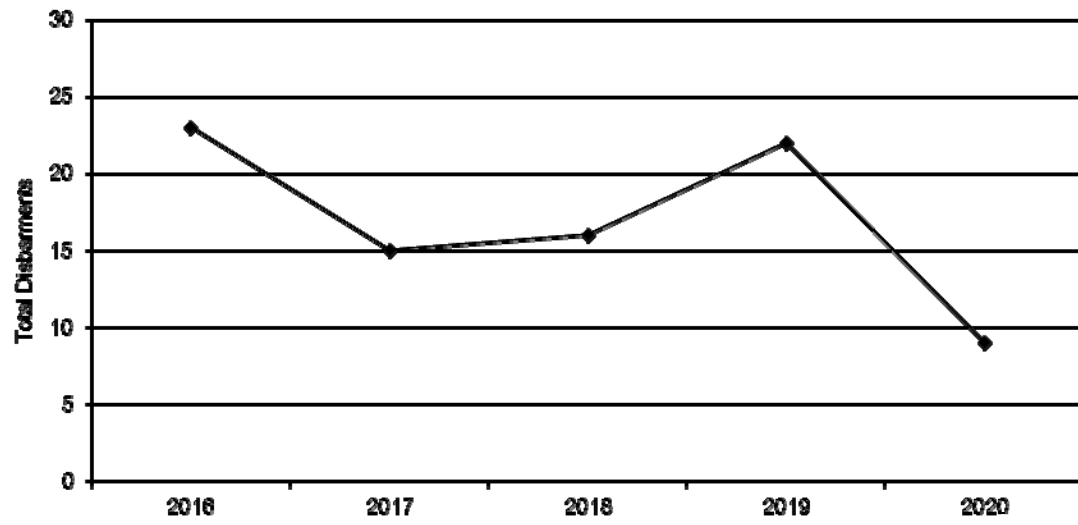
## **SUMMARY OF DISCIPLINE ACTIONS**

During 2020:

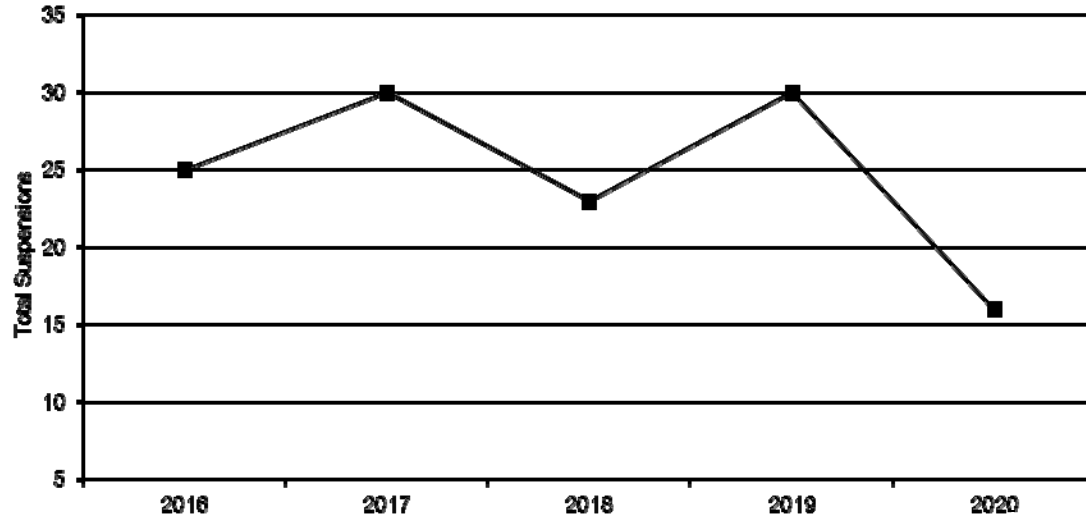
- **9** Nine lawyers were disbarred;
- **16** Sixteen lawyers were suspended; **two** of those suspensions were stayed and attorneys placed on probation with conditions;
- **4** Four lawyers received public reprimands; and
- **76** Seventy-six written admonitions were administered by the Regional Disciplinary Committees and the OCDC.

On occasion, other pending complaints against a lawyer are dismissed upon that lawyer's disbarment or suspension.

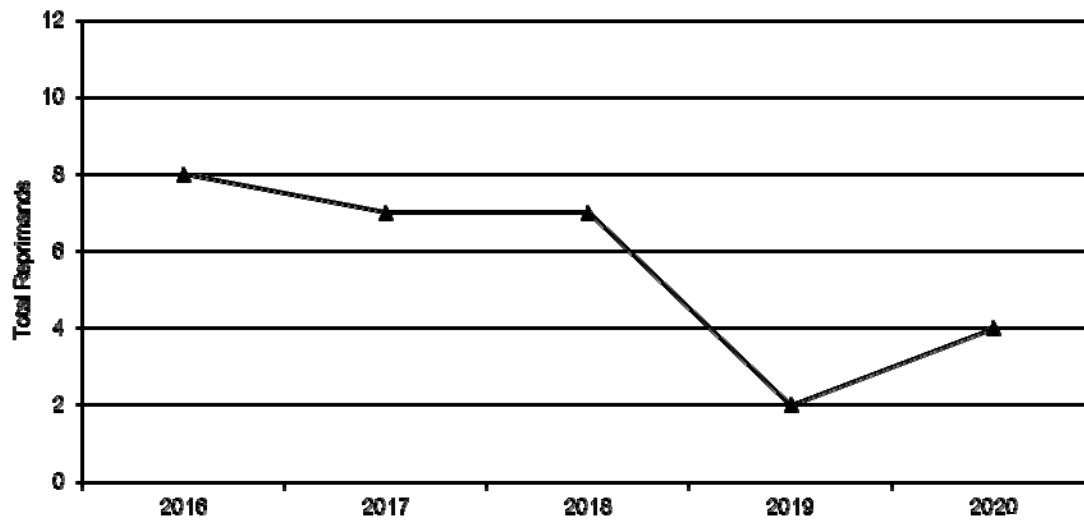
### Disbarments



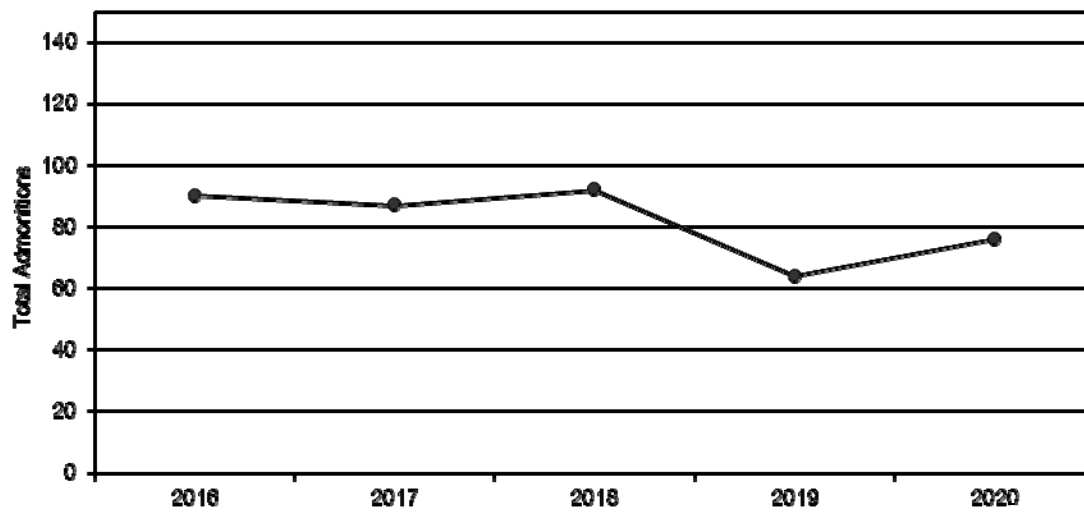
### Suspensions

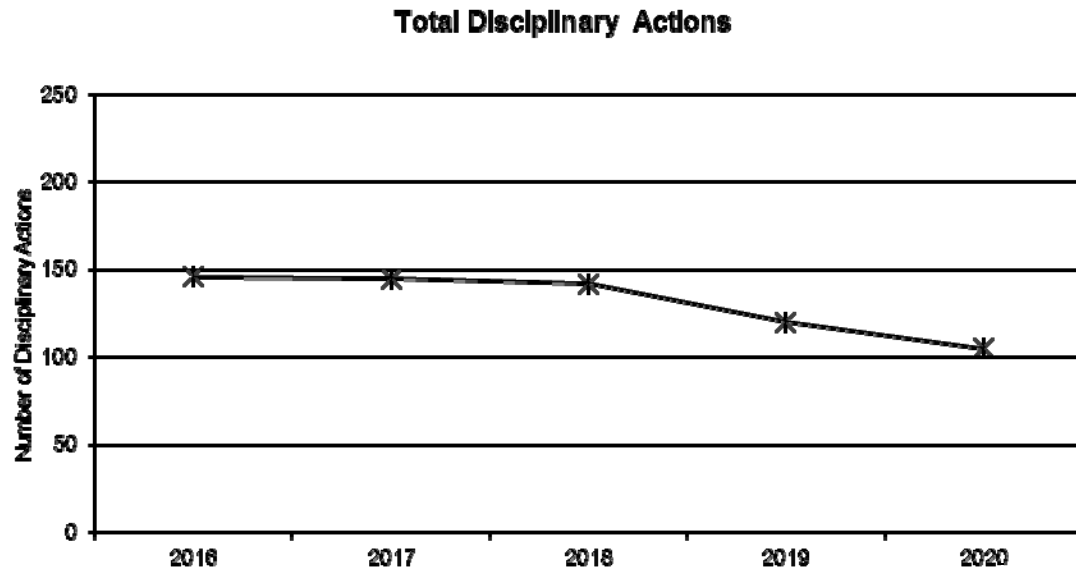


### Reprimands



### Admonitions





*In 2020, there were a total of (105) disciplinary actions including admonitions and formal discipline matters.*

The total number of complaints opened as formal investigations during 2020 was 855. The most common complaint areas are as follows:

<b>NATURE OF VIOLATIONS *</b>	<b>NO.</b>
Rule 4-8.4(c) (Dishonesty, Fraud, Deceit, Misrepresentation)	366
Rule 4-1.4 (Communication)	273
Rule 4-1.3 (Diligence)	241
Rule 4-1.15 (Safekeeping Property)	115
Rule 4-1.16 (Improper Withdrawal)	72
Rule 4-1.5 (Excessive Fees)	62
Rule 4-1.7 (Conflicts)	40
Rule 4-3.4 (Obstruction/False Evidence)	22
Rule 4-1.6 (Confidentiality)	20
Rule 4-3.3 (Truth to Tribunal)	19
Rule 4-4.1 (Truth to 3 <sup>rd</sup> Persons)	9
Rule 4-4.2 (Communication with Person Represented by Counsel)	9
Rule 4-7.2 (Advertising)	9
Rule 4-5.5 (Unauthorized Practice)	8
Rule 4-1.1 (Competence)	7
Rule 4-5.3(b) (Supervisory Responsibility)	7
Rule 4-4.3 (Dealing with Unrepresented Person)	4
Rule 4-8.4(b) (Criminal Activity)	4
Rule 4-1.16(a)(2) (Incapacitated Lawyer)	2
Rule 4-3.6 (Trial Publicity)	2
Rule 4-1.14 (Diminished Capacity)	1
Rule 4-3.5(b) (Ex Parte Contacts)	1
Rule 4-3.8 (Prosecutorial Responsibility)	1
Rule 4-8.1(c) (Failure to Cooperate)	1

\* Many complaints included more than one allegation.



The most prevalent practice areas which resulted in investigations are as follows:

<b>AREA OF PRACTICE *</b>	<b>NO.</b>
Other	323
Domestic	134
Criminal	113
Torts	69
Estate/Probate	28
Contracts	20
Workers Compensation	18
Real Property	15
Bankruptcy/Receivership	11
Administrative/Governmental	9
Corporate/Banking	9
Immigration/Naturalization	9
Traffic	6
Juvenile	5
Labor Law	5
Litigation	4
Collections	2
Commercial Law	1
Consumer Law	1
Guardianship	1
Landlord/Tenant	1

\* Investigations involving trust account overdraft notifications made to the OCDC are not included in this tabulation.

Dated at the Office of Chief Disciplinary Counsel at Jefferson City, Missouri this 9<sup>th</sup> day of August, 2021.

Respectfully Submitted,

ALAN D. PRATZEL  
Chief Disciplinary Counsel

## **LEGAL ETHICS COUNSEL ANNUAL REPORT FOR 2020**

### **I. LEGAL ETHICS COUNSEL’S ROLE**

#### **A. Informal Advisory Opinions**

Pursuant to Rule 5.30(c), the Legal Ethics Counsel issues nonbinding informal advisory opinions to members of the bar about Rules 4, 5, and 6.

The Legal Ethics Counsel office provided 1,071 oral informal advisory opinions via telephone. Many of these opinions involved multiple questions. Opinions given in conjunction with informal contact at bar meetings and CLE programs are generally not included in this count.

The Legal Ethics Counsel office provided 18 written informal advisory opinions.

The Advisory Committee authorized publication of 29 new informal opinions. Pursuant to Rule 5.30, written summaries of select informal opinions provided by the Legal Ethics Counsel are published for informational purposes for members of the bar. Informal opinions are advisory in nature and are not binding.

The Legal Ethics Counsel office also is conducting a comprehensive review of formerly published informal advisory opinions to ensure accuracy and relevance. This will be an ongoing project.

#### **B. CLE Presentations**

The Legal Ethics Counsel office prepared and gave 11 CLE presentations for various groups including: The Missouri Bar, Cole County Bar Association, and Cass County Bar Association.

### **II. ROLE OF THE LEGAL ETHICS COUNSEL TO THE ADVISORY COMMITTEE:**

Rule 5.07(b) provides that the Legal Ethics Counsel shall serve as staff to the Advisory Committee.

## **A. Review Summaries**

Pursuant to Rule 5.12, the Advisory Committee reviews investigation files if the OCDC or a Regional Disciplinary Committee finds no probable cause and the complainant requests review. The Legal Ethics Counsel office summarized and distributed 39 review files to the Advisory Committee.

## **B. Hearings**

The Legal Ethics Counsel office provided assistance with arrangements for hearings, as requested, to Disciplinary Hearing Officers.

The Legal Ethics Counsel administered the hearing process to assist the Chair of the Advisory Committee. As part of this process, the Legal Ethics Counsel proposed hearing panels, provided the file to the hearing panel once the panel was approved by the Chair, monitored the progress of the hearing, and assisted the hearing officers with issues that arose during the course of the process. 20 Informations were filed in 2020.

Rule 5.16 provides, in part:

(e) The written decision of the disciplinary hearing panel shall be filed with the chair of the advisory committee. The chair shall review the panel's decision for the limited purpose of determining that the recommendation for discipline, if any, conforms to this Rule 5 and the sanctions established by the Court. If the chair of the advisory committee determines that the panel's recommendation does not conform, the chair shall direct the disciplinary hearing panel to reconsider its recommendation for discipline. After reconsideration, the panel shall file the revised written decision with the chair of the advisory committee.

(f) The chair of the advisory committee shall serve the written decision of the disciplinary hearing panel by first class United States mail, postage prepaid, on the respondent, the counsel for the informant, and the chief disciplinary counsel.

The Legal Ethics Counsel performed the majority of these duties on behalf of, and in consultation with, the Chair.

In 2020, due to the global pandemic, some disciplinary hearings were held virtually in accordance with the Court's Order of May 13, 2020, effective May 16, 2020, *In re: Restrictions on Conducting In-person Disciplinary Hearing Panel Proceedings During the Coronavirus Disease (COVID-19) Pandemic*. The Legal Ethics Counsel office

developed procedures for disciplinary hearing officers and participants to ensure effective and proper proceedings in accordance with Rule 5 in the virtual format, and was responsible for coordinating and hosting these hearings via WebEx.

### **C. Budget**

The Legal Ethics Counsel prepared a proposed budget for the Advisory Committee and LEC office for 2021.

### **D. Meetings**

The Legal Ethics Counsel office coordinated arrangements for regular Advisory Committee meetings. The Legal Ethics Counsel office prepared agendas and meeting materials, and also prepared the minutes for these meetings.

### **E. Formal Opinions**

The Legal Ethics Counsel provided assistance to the Advisory Committee in relation to reviewing requests for formal opinions and possible appropriate topics for formal opinions in accordance with Rule 5.30(a).

### **F. Overdraft Reporting/Financial Institution Approval**

Beginning January 1, 2010, Missouri attorneys were required to have their trust accounts at financial institutions “approved” by the Advisory Committee. In order to be approved, the financial institution must enter into an agreement to report insufficient funds situations that arise on attorneys’ trust accounts to the Office of Chief Disciplinary Counsel. The Legal Ethics Counsel handled issues related to bank name changes, mergers, etc., as they relate to approved status. The Legal Ethics Counsel maintained a list of approved banks on the office website.

### **G. Other matters**

The Legal Ethics Counsel office maintained a website for the Advisory Committee and Legal Ethics Counsel, [www.mo-legal-ethics.org](http://www.mo-legal-ethics.org). The website includes a list of pending disciplinary matters, a calendar of upcoming disciplinary hearings, information on public access to disciplinary records pursuant to Rule 5.31, articles and CLE materials on legal ethics issues prepared by the Legal Ethics Counsel office, and links to various resources. The Legal Ethics Counsel office continues to develop resource pages for lawyers on specific ethics topics that are posted on its website. In March, 2020, a special resource page was published for lawyers on “Ethical Considerations for Missouri Lawyers

Regarding the COVID-19 Pandemic.” The Legal Ethics Counsel office also wrote articles for publication in the *Journal of the Missouri Bar*.

Additionally, the Legal Ethics Counsel served on the Planning Committee for The Missouri Bar’s Solo & Small Firm Conference, as Immediate Past President for the National Organization of Bar Counsel for 2019-2020, and as a member of the ABA Standing Committee on Ethics and Professional Responsibility starting in 2020 for a term until 2023.